Motion carries.

Delegate Schrag.

MR. SCHRAG: Mr. President, I move the adoption of 6.B.

VOICE: Second.

MR. CASSELL: Moved and seconded that 6.B be adopted.

Discussion? There being no discussion, those in favor of Section 6.B signify by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

Mr. Schrag.

MR. SCHRAG: Mr. President, I move the adoption of 6.C, and let me state in moving 6.B and 6.C that we are aware that the Council of the District of Columbia is currently considering legislation which would put the Senators-elect on the correct federal cycle, that is, they would fit within the proper number of years for the next Senators to be admitted to the United States Senate.

If that happens, these two sections, particularly

Subsection B, may never have to be invoked, because the Senators may automatically fit into the cycle and there may be no need for special elections. I just want to make clear the history of this provision.

MR. CASSELL: Further discussion on C? Those in favor of Section 6.C indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

Delegate Schrag.

MR. SCHRAG: I move the adoption of Section 6.

VOICE: Second.

MR. CASSELL: Moved and seconded that Section 6 be adopted.

Delegate Mason?

MR. C. MASON: I move an additional section, Subsection D, saying "The special elections provided for in B and C above shall be held only if a vacancy exists at the time."

That simply has the effect that if Congress has accepted our people, and they have a year to go or two years to go, they simply will serve out their terms before the general elections, and thereafter elections shall be held in accordance with the laws and the Constitution of the United States.

MR. CASSELL: Is there a second?

MR. B. MOORE: I'm sorry, I didn't hear it, could he repeat it please?

MR. CASSELL: Delegate Mason.

MR. C. MASON: "The elections called for in subsections B and C shall be held only for such vacancies as may exist."

MR. CASSELL: Okay, is there a second to that motion?

The motion dies for lack of a second.

Okay, on the floor is to adopt Section 6, as amended.

Those in favor indicate by saying aye.

[Chorus of "ayes"]

Those opposed.

[Two or three "noes"]

Those abstaining.

[No response]

Motion carries. Delegate Schrag.

MR. SCHRAG: I move the adoption of Section 7.

MS. SIMMONS: Second.

MR. CASSELL: It has been moved and seconded that Section 7 be adopted.

Discussion?

MS. CORN: Yes, a question.

MR. CASSELL: Gloria Corn.

MS. CORN: The way you explained the way we had to keep judges on, you know, that had been appointed before. Is that the same reason why we have to keep people who are on boards and commissions on, the same reasons?

MR. SCHRAG: Delegate Corn, I didn't say we have to keep judges on; I said that terminating the lawful appointments of judges, lawfully appointed, would raise serious questions. I didn't say that it couldn't be done.

MS. CORN: Is that the same point here?

MR. SCHRAG: The principal argument for keeping boards, commissions, and other agencies in force is to prevent an accidental lapse; that is, we have a public service commission, for example--I'm sorry, this particular section refers to those who are federal officers. We have a zoning commission; it includes an officer or two who serve in those positions by virtue of holding or being appointed through federal offices.

If we didn't have a section like this, there would be a great deal of confusion as to what would happen on the day that we became a state. It could be that we would accidentally end up with no zoning commission at all. So this provision says that we will continue to have a zoning commission and we will continue to have an aqueduct commission and whatever other agencies there are with a federal officer, except that the federal officer shall simply drop off and all of the officers who are serving on that commission after we become a state will be state officers.

MS. CORN: Does that imply that they will stay on in their positions on their boards and commissions until their term would normally expire, or does it mean that the Governor may, when he gets around to it or as soon as he gets around to it, can replace them?

MR. SCHRAG: The method for dealing with these boards and commissions and agencies after the constitution enters into force is the method prescribed in the article on the executive branch.

MR. CASSELL: Delegate Kameny.

MR. KAMENY: I have a question, and I apologize if I am showing my ignorance or lack of homework. What about boards and commissions which do not have on them any appointees connected with federal office? In other words, ---

MS. CORN: That was my question.

MR. KAMENY: Are they covered in some other way?

MR. SCHRAG: Those boards, such as the Public Service Commission, are covered under Section 4.E, Delegate Kameny.

MR. KAMENY: That's before I came in. Thank you. And they would simply continue?

MR. SCHRAG: Yes, until their offices shall have been abolished or their successors selected and qualified.

MR. KAMENY: Thank you.

MR. CASSELL: Further discussion on Section 7? There being no further discussion, those in favor of adopting Section 7, as written, indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

Delegate Schrag, Section 8.

MR. SCHRAG: Mr. President, I move the adoption of Section 8.A.

MS. SIMMONS: Second.

MR. CASSELL: Moved and seconded that Section 8.A be adopted.

Discussion? Those in favor of adopting Section 8.A indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

Schrag.

MR. SCHRAG: Mr. President, I move the adoption of Section 8.B.

VOICE: Second.

MR. CASSELL: Moved and seconded that we adopt Section 8.B.

Discussion? Kameny.

MR. KAMENY: I am a little bit concerned that there is no time limit on the transfer of authority; it merely says "When the Attorney General...determines that he or she is prepared..."

Now, suppose we have the strange state of affairs where the Attorney General never determines this. Is the

United States Attorney forever going to continue to handle these matters?

I think there has to be a closing date whether or not this officer is prepared.

MR. SCHRAG: Delegate Kameny, we considered that, and we came to the conclusion that really there should not be a closing date whether or not the Attorney General is prepared to assume the responsibility. This is a very difficult business, starting up an office of the Attorney General, where there are thousands of cases in the pipeline of prosecution and litigation.

And we decided that we didn't have the competence to know just how many months or years it was going to take to fully staff up an office, have all the necessary appropriations made, hire the people, get them properly certified for the work they have to do, and so forth.

And we thought it might be best to leave it to the good judgment of the Governor who appoints the Attorney General, and to the Attorney General, to determine what their needs are, and we shouldn't second-guess them by putting arbitrary time limits on the period with which they have to fully staff up and have appropriated all the necessary needs for their offices.

MR. CASSELL: Delegates Long, Bruning, Shelton.

MR. LONG: The same concern, and in response to the general counsel's concern here, I have an amendment which does impose a limit. The amendment is, on line three of Section B, after the word "Columbia," the phrase would be inserted as follows: "but no later than one year after this constitution takes effect."

MS. SIMMONS: Point of order, Mr. President. I believe that the amendment is out of order. It's for B, we are on A at the moment.

MR. CASSELL: There seems to be some confusion; the Secretary thinks we are on A, too, but the discussion was on B, wasn't it?

MR. KAMENY: Yes.

MR. CASSELL: Did we adopt A?

MR. KAMENY: Yes.

MR. CASSELL: All right, Mr. Secretary, did you get that amendment?

Would you read it back again, because I didn't hear it all.

MR. COOPER: Mr. Long wishes to insert on line three after the word "Columbia" "but no later than one year after this constitution takes effect."

MR. CASSELL: The Secretary wishes to commend the maker of this motion for the legibility of his submission, and recommends that all persons take such care in the future.

All right, any discussion on the Long amendment? Schrag.

MR. SCHRAG: Mr. President, what I said before still stands, and one year is an outrageously short time. There probably won't even be the necessary appropriations made, much less the hiring up of hundreds of lawyers to take over the criminal part of the docket in that time.

I don't believe this amendment is practicable.

MR. CASSELL: Okay, Bruning?

MR. BRUNING: Yes, I want to associate myself very directly with Delegate Schrag's remarks. I think this is going to be a very difficult process, and I think some discretion is needed. But if for some reason the Attorney General proves to be unwilling to take on that job, certainly the person who hires him and indeed can fire him, i.e., the Governor of the state, will remedy the recalcitrance of the [inaudible] for the state to assume responsibility within a [inaudible] period of time.

MR. CASSELL: All right, Delegate Shelton, and then we will hear from the general counsel.

MS. SHELTON: I understand the difficulty of implementing this section. I do think that, as we have moved expeditiously in other sections to turn over the independent authority, we should try to place some guidelines on this particular section. If one year is not sufficient, I would urge the committee to give us some indication of some reasonable time that we could expect, or either to place some mandatory responsibility for reporting progress. I guess it does speak to the need to have this particular branch come into compliance in some orderly fashion, and to have attorneys to understand that, as others have to move expeditiously in turning over these powers, this office will have to also.

So I have a question. If one year is not sufficient, are there any guidelines that we can offer that would give us any clearer indication as to the time frame that we are looking forward to in terms of the transitional period?

MR. CASSELL: Okay, before we hear from the general counsel, Delegate Schrag?

MR. SCHRAG: Well, I think Delegate Shelton has a point. I hate to give you a specific figure, because this would take some empirical research which we don't think we could do. And I wonder whether Delegate Shelton would find it reasonable to add to the section a sentence that read "The legislature may set an outer limit on the time within which such matters shall be transferred"?

The committee, I think, could accept that. Let me just check with other members of the committee.

Okay.

MR. CASSELL: Can we accept that by common consent without having to go through a motion? Common consent?

MR. SCHRAG: The words, then, are "The legislature may set an outer limit on the time within which matters [no "such"] shall be transferred."

MR. CASSELL: Okay, the motion that we are considering now does have that language.

General counsel?

MR. THOMAS: Yes, that was something like I was going to recommend, adopting the comments of Delegate Shelton, and this compromise language.

MR. LONG: I withdraw my motion.

MR. CASSELL: All right, very good. Delegate Long has indicated that he doesn't think that his amendment is now necessary. This language that we have just accepted by common consent takes care of that problem.

Are we ready to vote now on B, Section 8.B?

Those in favor of Section 8.B, as amended, indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

Adopted. Delegate Schrag.

MR. SCHRAG: Mr. President, I move the adoption of Section 8.C, and in doing so I would like to note an issue that the general counsel has raised and on which the committee has taken no position, but once again we would like to bring it to the attention of the body for whatever decision the body wants to make about it.

The general counsel suggests that the authority on line three, to permit the United States Attorney to make a case-by-case determination of which cases are to be transferred, may be giving him or her too much discretion. And that possibly we should limit this language to categories of cases, by deleting the words "case or" on line three, the word "any" on line three, and by changing "case" to "cases" right after the word "any."

As I say, we have no position on this question.

So, if changed, it would read: "The Attorney General may agree with the United States Attorney to enable the United States Attorney to continue to handle any category of case, including any cases arising after this Constitution becomes..." ---

MR. CASSELL: You struck "any," didn't you?

MR. SCHRAG: "...including cases arising after this Constitution becomes effective..."

To make this simple in terms of procedure, I am moving the subsection as written, as printed, and just calling the question to the attention of the body, and showing the body one way to resolve the question, if it so chooses.

Is there a second for my motion?

VOICE: Second.

MR. CASSELL: All right, the motion on the floor is to adopt Section 8.C, as written.

Mr. Counsel?

MR. THOMAS: Thank you. My concern was based principally on the fact that there was no outer limit set in which the powers of the U. S. Attorney were transferred to the Attorney General. I was concerned that with this outer limit and the fact that they could keep any case and every case that this might cause a problem. I am not that strongly concerned about it at this point, that it would require a language change, unless it's the feeling of the delegates.

MR. CASSELL: Well, you have all seen and heard this discussion. Is there anyone who wants to make that amendment?

Delegate Bruning.

MR. BRUNING: Yes, I would like to make that the amendment, to delete "case or" on line three and then the word "any."

MR. CASSELL: And to make the word "case" that follows "any," "cases"?

MR. BRUNING: Yes.

MS. SHELTON: Point of information.

MR. CASSELL: Delegate Shelton.

MS. SHELTON: I don't quite understand. Are we thinking in terms of an orderly process ---

MR. CASSELL: Excuse me, I'm sorry, I did not ask for a second.

VOICE: Second.

MR. CASSELL: All right, Delegate Shelton.

MS. SHELTON: Are we concerned here about an orderly process that should be agreed upon based on legal standards as to which cases can be best moved forward in a timely fashion?

What is the intent of this section?

MR. SCHRAG: Yes, Delegate Shelton, the idea is that the Attorney General---under the section as written, the Attorney General and the United States Attorney could agree, for example, that in January the Attorney General will take over all the embezzlement cases, and in February the Attorney General will take over all the murder cases; or, alternatively, if we leave the language as is, we will give the Attorney General a little more flexibility to say--to agree with the U. S. Attorney--that such and such a case the U. S. Attorney has been working on for a year and a half, and it's almost ready to go to trial, and we will let the U. S. Attorney keep that one, whereas such and such a case, although it is of the same generic type, has been worked on last and therefore that one is okay to transfer to the Attorney General.

In view of the general counsel's comments, that he is no longer troubled by the existing language, given the change that we made in Section B, I think it might be better to give the Attorney General more flexibility, and just leave the language as it is written.

MS. SHELTON: Was any consideration given in the committee to a more general language, such as "The Attorney General and the United States Attorney shall agree on an orderly process for the transfer of cases by category"?

MR. SCHRAG: No, we pretty much worked with this language in the committee.

MR. CASSELL: Delegate Kameny.

MR. KAMENY: Yes, while I recognize the concern voiced by Delegate Schrag, and certainly I can appreciate the concerns which a United States Attorney might have at some future date when he is just about ready to go to trial on a case that he has prepared at great length, I am always troubled when you reduce a process like this from categories to individuals. It permits abuse. We may have an honorable United States Attorney and Attorney General--you'll never know. And it permits the United States Attorney for improper motives to zero in on this defendant or that defendant in this way or that way.

And that is why I am troubled by leaving the present language which refers to both individual cases and categories, and would support the amendment which allows just the categories.

MR. CASSELL: All right, one more. Gloria Corn.

MS. CORN: I have two questions on this. The first question is, what if the Assistant U. S. Attorney says, well, you know, you are a state now, here is everything, take these twenty-five file cabinets with my blessings, goodbye, I don't want to handle another thing?

MR. CASSELL: I don't know whether we need to debate that. If he does, then we have no choice but to take it over. I mean, this is negotiation between the two. I don't think that's a problem; I don't think it affects this amendment.

MS. CORN: No, I was just wondering how that would be handled.

MR. CASSELL: Second question.

MS. CORN: The second question I have is, if the Bruning amendment were passed, what does that do to the last sentence in this section? Does it change it or not, Delegate Schrag?

MR. CASSELL: It's just a modification.

MR. SCHRAG: If the Bruning amendment is passed-- the Bruning amendment does not address itself to the last section [sic].

MS. CORN: But it's nonetheless involved, after all. If they do decide to do it by types of cases, like all murders in January and all fraud in February, and they were ready to start going to trial on a murder case tomorrow morning or they are in the middle of a murder case, but that is the first category to be transferred, then how would that be affected if the Bruning amendment were passed and this last sentence were kept in place?

MR. SCHRAG: Delegate Corn, I see Delegate Bruning indicating by his head motion that he agrees with my interpretation: the last sentence would remain as an exception to the general policy.

MR. CASSELL: Motion on the floor, Section 8.C, as amended.

Those in favor of adopting 8.C ---

MR. SCHRAG: The Bruning amendment, Mr. President.

MR. CASSELL: I beg your pardon, the Bruning amendment.

Do we need to read that again? Okay, those in favor of the Bruning amendment to 8.C indicate by saying aye.

[Some "ayes"]

Opposed.

[Chorus of "noes"]

Abstain.

Let me see hands. Those in favor of the Bruning amendment, hands.

MR. COOPER: 3.

MR. CASSELL: Those opposed.

MR. COOPER: 10.

MR. CASSELL: Abstain.

MR. COOPER: 1.

MR. CASSELL: Motion loses, we are back to the original motion, 8.C, as written.

Those in favor of the motion please signify by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

Motion passes.

MR. SCHRAG: Mr. President, I move the adoption of 8.D.

VOICE: Second.

MR. CASSELL: It has been moved and seconded that 8.D be adopted.

Discussion?

MS. CORN: A question.

MR. CASSELL: State your question.

MS. CORN: What does it mean, Delegate Schrag, please?

MR. SCHRAG: Delegate Corn, the purpose of this section is to make sure that a criminal defendant is not permitted to have a defense to his prosecution solely on the ground that a prosecution of what is now a state crime is being handled by a federal official.

It makes sure that the delegation of the power to prosecute to the federal official is lawful, insofar as it is within the power of this constitution to make that lawful.

MR. CASSELL: Further discussion on 8.D. There being none, those in favor of 8.D, as written, indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

Section D is adopted.

MR. SCHRAG: Mr. President, move the adoption of Section 8.

VOICE: Second.

MR. CASSELL: All right, it has been moved and seconded that Section 8 be adopted, as amended. Those in favor indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

Section 8 is adopted.

MR. SCHRAG: Mr. President, I move the adoption of Section 9, and I note one typographical omission on line four, where we should insert the word "Statehood" before "Constitutional Convention."

VOICE: Second.

MR. CASSELL: All right, let's just accept that, it's an obvious typo.

It's been moved and seconded that Section 9 be adopted.

Discussion? There being none, those in favor of adopting Section 9--you've got to get them up fast now. Delegates Love and Kameny.

MR. LOVE: Mr. Chair, we have some rules for first, second, and third readings. This appears to back off from them, and allows us to go back and make changes on the basis of majority vote of all delegates.

I would like to change that figure and make it a three-quarters vote.

MR. SCHRAG: Mr. Love, I think you misunderstand. May I explain?

MR. LOVE: Yes.

MR. SCHRAG: Note that the first words in the sentence are "Between the time that it is signed and..." Nothing in this section has anything to do with third readings or second readings. It has to do with what takes place after it is signed. Specifically, it has to do with what would be the case--the first sentence has to do with what would be the case if the voters reject the constitution this year, and we come back here next year. In that event, the law would require that we approve any changes or whatever in our constitution.

Now, how do we approve those changes, what is the method by which we approve those changes next year?

The section in no way precludes us from adopting or living under--not adopting, we have adopted--from living within our own rules, which require us to have various kinds of majorities for various kinds of readings, or whatever new rules we adopt for any reinstituted session of this Convention. It merely says that on the final take, on the final vote, we would have to have the affirmative votes of the majority of all delegates, which is what our rules provide now for final adoption of the constitution.

Next week, final adoption will require a majority vote of all delegates.

MR. CASSELL: Baldwin, Kameny.

MR. BALDWIN: My concern, Mr. President, is the same as Delegate Love's. I am concerned with what Delegate Schrag says as far as what it is--it does need a majority, that's true. But Delegate Love suggested this speaks to an amendment and not [inaudible].

But we come back and a majority of us can undo everything else we have done, and that is what I am opposed to. I would like to see it two-thirds.

MR. CASSELL: Let me have a response to that, Delegate Schrag.

MR. KAMENY: Mr. Chair, you recognized me.

MR. CASSELL: Yes, but I am asking for a response to a specific question.

MR. SCHRAG: Mr. President, let me state again, this section only has to do with what happens after this is signed, after this is signed and it's turned down by the voters. It has nothing to do with what happens next week.

Now, after it's signed, we come back; after this has been turned down by the voters, we would be making, it seems to me, an extraordinary mistake to tie our own hands and say that a majority of us can't make whatever changes are necessary to get this thing passed on a second take, because you may remember from the initiative, we have only one more chance after this fall. We have only one more chance. If we put an extraordinary majority in here, so that it would take a two-thirds vote or a three-quarters vote to pass an amendment to this constitution, we would never be able to amend this constitution in a substantive way and we would practically ensure ourselves that we would have two defeats at the polls rather than one.

VOICE: Point of order, Mr. Chairman.

MR. CASSELL: Delegate Kameny. Delegate Blount.

MR. KAMENY: Yes, Mr. President--I have the floor, please!

MR. CASSELL: Hold on. I'm taking it from you, that's what points of order are for.

Delegate Blount.

MR. BLOUNT: There being no amendment before us, there is no reason to have a debate.

MR. KAMENY: There is a motion before us, and we are debating the motion.

MR. BLOUNT: But there is no amendment before us.

MR. KAMENY: There is a motion before us and we are debating the contents of the motion, which is this section! Now.

MR. CASSELL: Wait a minute, Delegate Kameny. You know, I agree with you, you are perfectly correct, but I have to really state that; you know, I could disagree with you, you know--I just happen to agree with you on that, right?

MR. KAMENY: Thank you. Delegate Schrag seems to overlook the fact that between the time that it is signed and the time that it is approved means all the months of June, July, August, September of this year. That is what this language says; it does not mean if it fails in September at the ballot thereafter. And that leaves us in a state of total instability where we are left in a situation as if during first reading when anything in this constitution, according to this language, can be amended by a simple majority vote of this Convention.

I think that this creates a situation of the most intolerable instability.

Now, what I suggest that Delegate Schrag wants to get at is very simply--if the populace defeats this constitution at the polls, this constitution no longer exists, and we are back to the drawing board; we can take as much of the constitution as we want to, or not--but we are starting from the beginning.

And therefore I would move that the whole first sentence of this section be deleted.

VOICE: Second.

MR. CASSELL: All right, an amendment is to delete the first sentence of Section 9.

Discussion on the amendment? Mason.

MR. C. MASON: Delegate Kameny has pointed out that under the terms of this particular language, this amendment could take place by a majority vote, even this summer, before the election. However, looking at the constitution as a whole, it appears to me that no part of the constitution takes effect until we are admitted. So it seems to me the only thing governing what we do between now and the election is our own rules and the initiative, because Section 9, along with all the other sections, don't take place until some time after we are admitted.

MR. CASSELL: You are speaking against the motion.

MR. C. MASON: I am speaking against the motion, unless somebody explains what puts Section 9 into effect any sooner.

MR. CASSELL: Delegate Robinson.

MR. ROBINSON: I stand to speak in favor of the motion because personally I have not been satisfied that a simple majority of persons cannot in fact subvert or change or overthrow what this duly elected body has done.

Finally, it would make more sense to me to include only the final five lines of the final page, if in fact there was not something clandestine, according to the language, hidden in here.

So I will ask my fellow delegates to vote for the Kameny amendment.

MR. CASSELL: Schrag and Freeman.

MR. SCHRAG: Mr. President, I move a substitute to the Kameny amendment. The substitute would change the first line to read "Between November, 1982, and the time that this Constitution is approved..."

VOICE: Second.

MR. CASSELL: Would you care to speak to that motion?

MR. SCHRAG: Yes, the purpose of this amendment is to allay Delegate Kameny's fears that we will somehow come back into this hot and sweaty room in August to do damage to our beautiful constitution. I do not plan to be here in August, and I hope that Delegate Kameny does not have to be here during August.

MR. KAMENY: You don't know what a small group of fanatics can do.

MS. CORN: The Republicans will get to work and change it and ---

[Chairman gavels for order]

MR. SCHRAG: However, to assure Delegate Kameny that he need only be concerned about cooler months, I propose this alternative, which will make it clear that the only condition under which the majority-vote rule would be in effect would be November, which would be after the voters have had their say on this constitution.

At that point, if the voters approve the constitution, the second sentence takes effect instead of the first one; if the voters turn it down and we come back into session, then a majority vote of all delegates can approve changes in this. And rather than having to start from scratch and go section by section through an entire constitution, we would have the power to just deal with those sections that we thought the voters disapproved of.

MR. CASSELL: Delegate Freeman.

MS. FREEMAN: I want to speak against both the Schrag substitute motion and the Kameny amendment. I basically support the language as it is written.

It seems to me that, one, we are elected delegates until whatever--three years from last November--and so we do have the authority and power to do anything we want to the constitution until it has been adopted by the voters of D. C. And the argument that somehow a majority can sabotage the constitution just doesn't sit right with me. How are we going to get together and meet between whenever we finish this work and November? I mean, I am hard-pressed to think of how we are going to do that. If we can pull that together we would probably only do it if there is some really serious fundamental flaw in this document and it ought to be [inaudible] if there is one before it goes on the ballot.

MR. CASSELL: All right, Delegate Cooper?

MR. COOPER: I would like to speak against the Schrag amendment so that we can vote up the Kameny amendment and strike this section.

I think Mr. Schrag's comments to allay Mr. Kameny's fear certainly did not do that, at least it didn't allay any fears of mine.

Basically we are not concerned about meeting here during the hot months of summer, or when we meet. What our concern and what our objection is to the fact that we would allow twenty-three delegates to this Constitutional Convention to convene at any time--and, of course, those twenty-three could convene, because that is a quorum, and they could do business and they could amend this constitution. I think that is what everybody is speaking against. And that is a horrible process and it is extremely dangerous.

And I think the section should be stricken, because we shouldn't even have it written in--even if it were two-thirds, three-fourths, three-fifths, or seven-eighths, or fifteen-sixteenths, that is still too many. I think the whole section should be stricken. We shouldn't be able to do that.

MR. CASSELL: Mr. Secretary, please read the Schrag amendment to the amendment.

MR. COOPER: His is a substitute. It is a substitute to restore the first sentence and insert after the first word in that sentence, which is "Between," the words "November, 1982, and..."

MR. CASSELL: I think there's been enough discussion on that; we are almost finished this. Are we ready to vote on this? Is there anything--please, it's very distracting; look, let me say to you again, there are several hands up there but it's very difficult for me to see them and to count them with you jumping up and down and yelling at me.

MS. CORN: I'm not jumping; I haven't said anything.

MR. CASSELL: All right, now, let me ask you: is there discussion on this substitute motion that has not been made that must be made?

MS. CORN: Yes.

MR. CASSELL: New, new information.

MS. CORN: Yes.

MR. CASSELL: Thomas, Mason, Bruning.

MR. THOMAS: Mr. President, I move the question.

VOICE: Second.

MR. CASSELL: All right, it's been moved and seconded that we close off debate.

Those in favor signify by saying aye.

[Chorus of "ayes"]

Opposed.

[Chorus of "noes"]

Abstain.

[No response]

The ayes have it.

The motion on the floor is the substitute motion by Delegate Schrag. Those in favor indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[Chorus of "noes"]

Abstain.

[No response]

The nays have it. Okay, we are back to the amendment by Delegate Kameny.

Those in favor of Delegate Kameny's motion ---

VOICE: What is the motion?

MR. CASSELL: Kameny's motion is to delete the first sentence of this particular section, beginning with "Between" and ending with "Convention."

Those in favor indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[Chorus of "noes"]

Abstain.

[No response]

The noes have it.

VOICE: Division.

MR. CASSELL: We are back to division. Those in favor of the Kameny motion indicate by raising your hands.

MR. COOPER: 15.

MR. CASSELL: Those opposed.

MR. COOPER: 10.

MR. CASSELL: The Kameny amendment carries. We are back to Section 9, as amended.

Further amendments? Delegate Schrag.

MR. SCHRAG: Mr. President, Delegate Mason pointed out a technical oversight when he last spoke, and I want to correct that.

I move to add to the end of the section an additional sentence: "This section shall take effect when the Constitution is approved by the voters."

Delegate Mason had pointed out that we had been a little too tricky for our own good in the sense that we had-- in Section 1 we have adopted that certain sections of this article go into effect at one time, most of the constitution, including the rest of this article, goes into effect ten months after we are admitted to the Union. This section speaks of the time between. The section with the Kameny amendment having deleted the first sentence now speaks to the time between approval and admission during which we may need to take some action, for example, if there is a boundary change or something, and by virtue of Section 1 as presently written this section doesn't take effect, and therefore we can't use it.

So we add this sentence to make sure that we can use it.

MR. CASSELL: The motion is to add a sentence to the end of the section which says: "This section shall take effect when the Constitution is approved by the voters."

Is that clear? Long.

MR. LONG: I have a feeling that this is not at all clear as to what right this constitution has before it is approved by Congress. It will be put to the voters in a referendum. However, does it fall under the initiative and referendum law which makes it a law so that this section actually goes into effect, or not? I believe that nothing in here, no matter what we say about effectiveness before the date Congress approves it is going to have any effect in law in the District of Columbia.

So I think this whole section is useless, unless we take the precaution of meeting somehow the initiative and referendum law which can make this section effective under District law.

MR. CASSELL: Mr. General Counsel, do you have any response to that?

MR. THOMAS: I would like to hear more discussion.

MR. CASSELL: Delegate Kameny.

MR. KAMENY: It seems to me that Congress never, procedurally speaking, approves this constitution at all. Congress is approving our admission into the union of states --they are approving statehood.

The fact that this constitution is here may influence their vote, but they are voting on statehood, they are not voting on this constitution.

Therefore, if the voters vote this, and [inaudible] says "This section shall take effect when the Constitution is approved by the voters," they are voting that it takes effect when this constitution is approved by voters.

MR. CASSELL: One more. Delegate Coates?

MR. COATES: I suspect I am opposed to this section unless ---

MR. CASSELL: The section or the last sentence to be added to the section? The motion on the floor now is to add a section to the end, or a sentence to the end of the section.

MR. COATES: No, I want to speak to the second sentence.

MR. CASSELL: Okay, what's on the floor now is shall we amend it by adding that last sentence.

MR. COATES: I see.

MR. CASSELL: Okay, further discussion? Those in favor of--Delegate Shelton?

MS. SHELTON: No, sir, I have an addition before we vote on the entire section, the entire ---

MR. CASSELL: All right. Those in favor of the amendment which includes the sentence to be added to the section, which says "This section shall take effect when the Constitution is approved by the voters," indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

Okay, that amendment is adopted. Delegate Shelton?

MS. SHELTON: I have a question of the committee. Did the committee give any consideration to the period of time after the voters have approved the constitution and any legislation that can be enacted using our own existing powers? Did you consider, for example, that there are certain provisions that we have written into the new constitution that can be enacted given our own existing home rule powers?

MR. SCHRAG: We were aware that the Council can take any of the things that we have provided for in the constitution and make them District law, yes, we are.

MS. SHELTON: All right, was there any consideration, therefore, being given to trying to facilitate the process of the legislators, of the Council, the executive branch, boards and commissions from considering particular sections of this and enacting certain legislation that would fulfill the mandate of the voters of the District of Columbia prior to the full adoption of statehood?

MR. SCHRAG: Unfortunately, Delegate Shelton, this committee had its hands full with local government, intergovernmental relations, and transition, and did not have the opportunity to consider the question of ways in which the Council might bring some of these provisions into force earlier than the adoption of the constitution.

MS. SHELTON: May I read to you a proposed addition either to Section 9 or some appropriate place, and see if the committee would think that it would be appropriate?

"After the adoption of this Constitution by the voters, that the Council, executive branch, commissions, boards, consider the enactment of sections and provisions that may be approved with existing powers, and that the Senators be charged with the responsibility of studying and lobbying for local enactment."

VOICE: Second.

MR. SCHRAG: Delegate Shelton, might I suggest that before you offer that you consider offering it not as text of the constitution, but as a resolution to be passed by this Convention a week from Saturday at the time that we deal with the constitution so that it doesn't appear in the document throughout history, but is an expression, if you so desire, of the will of the Constitutional Convention?

MR. CASSELL: May the chair inquire what just transpired? I heard you read a section. Was this a proposed amendment, or what?

MS. SHELTON: Well, I thought that this suggestion would best fit under the whole question of transition, and therefore I thought that certain provisions of this constitution could really be enacted using our own local powers, and that during the course of these months we have come up with some excellent innovative ideas that should not be lost in this transitional period.

MR. CASSELL: I understand. Were you suggesting that we do incorporate--there was an amendment?

MS. SHELTON: I was suggesting that, but I am persuaded by the argument that it should not go in permanent but rather come in the form of a resolution, which I will introduce at the appropriate time.

MR. CASSELL: Okay, now we really ought to vote on this simple sentence now.

I'm not going to call on you again, I've called on you before.

MS. CORN: Point of order, sir.

MR. CASSELL: Remember these points of order now.

MS. CORN: Sir, I have submitted my amendment to this section in writing, to the Secretary, Delegate Cooper, and I request to be recognized to make my amendment on the floor.

MR. CASSELL: An amendment to this section?

MS. CORN: Yes, sir.

MR. CASSELL: All right, the motion is: on line seven, to put a period after "District of Columbia" and to delete everything following that.

Is there a second to that?

That dies for lack of a second.

We are back to the amendment, which is--yes?

MS. SIMMONS: The previous question, Mr. President.

MR. CASSELL: Those in favor of closing debate, indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[One "nay"]

Abstain.

[No response]

Okay. The vote on the floor is for the additional section, sentence--I don't think we need to read this again now. I better read it again. An additional sentence which says "This section shall take effect when the Constitution is approved by the voters."

Those in favor indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Those abstaining.

[No response]

That section is added. Delegate Coates?

MR. COATES: Thank you, sir. I suspect that I am opposed to Section 9 if my understanding is correct that upon approval by the voters, the D. C. City Council could rewrite this constitution and submit it to the electors for subsequent approval, if in their view they felt that was appropriate, without the Statehood Constitutional Convention being involved with respect to that rewriting.

MR. SCHRAG: Delegate Coates, the purpose of this sentence--it was suggested by Delegate Love during the debate on intergovernmental relations, it was pointed out correctly that the boundaries that we had written, or indeed some other small aspect of our constitution, might be unacceptable to the Congress. We have to have some kind of negotiation with them to be admitted to the state. And if Congress wants to insist on some particular change in our constitution as a condition of our being admitted to the state, I think--I sense that the people of the District of Columbia, in their wisdom, have to make a judgment on that.

If we were to leave out this section, we would have a real problem. We would have a constitution which hadn't entered into force; therefore, there would be no way of amending it, because the amendment section hadn't entered into force, and we would be unable to have any flexibility in terms of a negotiation with Congress to be admitted as a state. And therefore this section is put in with the protection in it of the ultimate wisdom residing in the people.

Now, the reason there is a choice in here--you could offer an amendment to delete that choice, between the initiating process being with the Council and the initiating process being with the Convention--is that it may be very expensive, as it has been in the case of this Convention, to convene a constitutional convention, either this one or a different one. And if the change is a very minor one, such as the change of a street line between, you know, to include or exclude the Federal Triangle, or something of that sort, we thought it might be better to save the voters of the District, the people of the District, the expense of convening a constitutional convention and permit the Council to recommend a change to the people.

If you disagree with that, I would hope that you would make an appropriate amendment to delete the Council part of this rather than voting against the entire section.

MR. COATES: Mr. President.

MR. CASSELL: Yes.

MR. COATES: I have listened carefully to Delegate Schrag, and I am convinced now that this potentially is a devastating provision, potentially a devastating provision to all that we have laboriously and painfully articulated as a proposed constitution for the new state, because if we adopt

Section 9 as presently postured, it means that every area of special interest and opposition to any word, period, comma, sentence, clause, phrase, section, article will then utilize the D. C. City Council to unwrite what we have torturedly labored through for ninety-some days. That to me is totally unacceptable.

The point is well taken that if there is a need to amend this document in the light of the Statehood Commission or in the light of reactions or responses by the Congress, we ought to provide for it. But to include in that provision that the D. C. City Council could totally rewrite what we have done and adopt it by a simple majority vote and submit it to the electorate is totally unacceptable. And it is an insult to me and it is an insult to this Convention.

I therefore, Mr. President, move to strike ---

MR. CASSELL: Yes?

MR. COATES: --- with the pen of indelible impression ---

[Laughter and applause]

MR. KAMENY: Our second Jerry Moore!

MR. COOPER: Second.

MS. SIMMONS: Amen. Preach, brother, preach!

MR. COATES: --- the phrase "or by the Council of the District of Columbia."

VOICE: Second.

VOICE: Second.

VOICE: Second.

MR. COATES: And insert a period after "Convention."

VOICE: Second.

MR. CASSELL: I'm sorry, there was a bit of noise. To strike the entire thing?

MR. COATES: To strike "or by the Council of the District of Columbia," and insert a period after "Convention."

VOICE: Second.

VOICE: Second.

VOICE: Second.

MR. CASSELL: Okay, it has been moved and seconded that on the last line there be a period after "Convention," and "or by the Council of the District of Columbia" be struck, is that correct?

MR. COATES: That is correct, sir.

MR. CASSELL: Very good. Discussion?

Delegates Jordan, Barnes, Kameny, Schrag--hold on just a minute, because I am going to cut this off at some point--keep your hands up, those who want to speak. Jordan, Kameny, Barnes, Schrag, Talmadge Moore, Oulahan--understand, now, that some of this may be repetitive. We don't have to have ten speakers on this.

Delegate Jordan.

MR. JORDAN: I can't begin to match my distinguished elder and teacher from Ward 8 in either fiery rhetoric or emotion at this point. I would only like to call the delegates' attention to the fact that the sentence does not give the Council of the District of Columbia the authority to change anything in the constitution that we would adopt.

What the section says is, that first of all the voters will approve any amendments that are recommended by the Council or the Constitutional Convention. The key word here is "recommend." It doesn't say made by, pursuant to, implemented by--it says "recommended by." And I think that if we have any fears about the Council of the District of Columbia running away and trying to do serious harm or injury to this constitution, we must remember that the safeguard here is that it could not be adopted, it cannot be adopted, it will not be adopted, unless the electors of the District of Columbia, after an affirmative vote, support it.

So I think if we are honest with each other--I am not suggesting that there has been anything but honesty in this discussion, there may have been a little misunderstanding of what its intent was, and it could be because we have been here such long hours and our eyes are starting to fail us--but I think if we will examine the section, we will see that we are only concerned with recommendations and those recommendations must be approved by the voters in the District of Columbia before they ever go into effect.

Now, if we don't trust the Council, if we say we can't trust these elected politicians who represent special interest groups, Lord knows we are in serious trouble if we can't trust the voters of the District of Columbia who elected us, and sent us to this Constitutional Convention.

So I would ask that you vote down the amendment that has been proposed by Delegate Coates.

MR. CASSELL: Fellow delegates, I have listed here seven people who want to speak on this. I really can't imagine that there are seven different points of view. I would like to reduce that, and I will pay careful attention to what is being said, and I will ask you after the next two discussions, one for and one against, hopefully if we can vote on this. It's just possible that we can get another article done tonight, it is relatively early, all right? Let's try to get another article done tonight.

Delegate Kameny, try to make it like one minute or less.

MR. KAMENY: Mr. President, after listening to the justifications by Delegate Schrag for having this whole provision, and to play with the old metaphor about throwing out the baby with the bathwater, that has been reversed: we are being asked to buy the bathwater to get the baby. For a few minor items--possible [inaudible] or a change in the boundary line--we have this whole amendment section.

I therefore propose a substitute motion for Delegate Coates to delete this entire section.

MR. CASSELL: That's out of order, sir; there is a substitute motion on the floor. Coates' motion is a substitute motion.

MR. KAMENY: No, that's an amendment, to drop one line at the end. I am proposing to delete the entire remainder of the section.

MR. CASSELL: Very good. Is there a second to that?

MS. CORN: That's what my ---

MR. CASSELL: You are out of order, please. It doesn't make any difference whether you thought it or said it before. This is a legitimate statement.

Is there a second to that?

VOICE: Second.

MR. CASSELL: It's been moved and seconded ---

MS. CORN: Point of order.

MR. CASSELL: Would you restate that again now?

MR. KAMENY: Yes. That the entire remainder of the section--part of it has already been deleted--that the entire remainder of Section 9 ---

MR. CASSELL: Beginning with "After" and ending with ---

MR. KAMENY: The end of the new sentence, "by the voters," be deleted.

MR. CASSELL: Okay, it has been moved and seconded that the second sentence and the remainder of the section be deleted.

Discussion? Mr. Barnes.

MR. BARNES: I was going to wait to speak to Section 9 as a whole, but since this motion has been made I can speak now.

I really commend the committee for including Sec- 9, the basic intent, with the motion that was made by Delegate Coates, because I think this allays the fear of some delegates who think that the constitution, once approved by the voters, if it is unacceptable to Congress, statehood will be impossible. I think our first goal is to get approval by the voters. We don't know how long it takes the process to take, and politically, you know, we will have to deal with Congress, and some compromise may come up whereby a certain change in the constitution will be necessary for us to officially get statehood.

I commend the committee on Section 9. However, I do like the amendment made by Delegate Coates, to call a Constitutional Convention to make amendments, to recommend amendments to the city.

So I am against the Kameny substitute motion.

MR. CASSELL: Delegate Schrag.

MR. SCHRAG: I speak against both the Kameny motion and the Coates motion.

It seems to me that we need something ---

MR. CASSELL: Let's understand, now--two people have said that--you can only speak to the motion on the floor.

MR. SCHRAG: And I want to call your attention to the fact that if we don't have a provision for the City Council to make the changes--and both these motions would delete that--we may not be in office three--we will not be in office two and a half years from now, after which there is a good chance that this will get to the Congress.

So if we don't provide for the City Council to recommend changes to the voters, as my fellow Delegate Jordan so eloquently put it, we will force the people to shoulder the hundreds of thousands of dollars of cost not only of a constitutional convention to change these provisions, but even of electing them, which costs hundreds of thousands of dollars. This is a huge and very difficult process, as we should know.

And if there is a small change to be made, let's permit some body to recommend that change to the voters.

MR. CASSELL: Talmadge Moore.

MR. T. MOORE: I waive.

MR. CASSELL: Oulahan.

MR. OULAHAN: Mr. President, I will deal with something else. I am very sorely troubled by Reverend Coates' amendment. We are not an autonomous body. The theory of the Coates amendment is that we are not answerable to any other body or anything until the constitution has been presented to the voters.

To my mind, this amendment is one of those steps for suicide ---

MR. CASSELL: I'm not clear which amendment you are speaking to, Delegate Oulahan. I think what you were saying was out of order, you weren't speaking to the motion on the floor.

Delegate Robinson.

MR. ROBINSON: I call the previous question.

VOICE: Second.

MR. CASSELL: The previous question has been called. Those in favor of closing debate indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[Scattered "noes"]

Abstain.

[No response]

The motion on the floor is to delete the rest of that section.

MR. LOVE: Mr. Chairman, I don't think you have had two against.

MR. CASSELL: The motion on the floor is to delete the sentence beginning "After" and ending with "the voters."

Those in favor of the substitute motion indicate by saying aye.

[Scattered "ayes"]

Those opposed.

[Chorus of "noes"]

Abstain.

[No response]

Motion loses. We are back to the original motion for Section 9, as amended.

MR. KAMENY: No, the Coates amendment.

MR. CASSELL: All right, the first amendment. Let me state that again. On the last line to delete everything after "Convention," a period after "Convention," then deleting everything else from there until "Columbia," right?

Okay, those in favor of Delegate Coates' motion ---

MS. CORN: Discussion.

MR. CASSELL: Discussion.

VOICE: He called the question.

MR. CASSELL: No, the question hasn't been called on that.

Delegate Corn.

MS. CORN: I would just like to ask Delegate Coates one thing: if we delete that part of the sentence you want, what it means, then, is that the only way that the voters can vote a change is if we recommend it; in other words, even if independently the voters would like--Delegate Coates, could I have the courtesy of a response from you when I am speaking to you?

MR. COATES: You have my undivided attention.

MS. CORN: If we delete the part of the sentence that you want, what it means is that the only ones who can make a recommendation to the voters to change anything in this constitution is the Constitutional Convention. That means by implication, therefore, that if the Statehood Compact Commission, in its negotiations with Congress, or the voters themselves want to make a change in this constitution, they can't, is that correct?

If the voters say we want a change, let's say the retention elections of judges, and we say, oh, no, we won't go along with that, then they can't do it by initiative until they get statehood, is that correct? Is that correct, sir?

MR. COATES: Not correct.

MR. LONG: Point of order.

MR. CASSELL: Point of order.

MR. LONG: The discussion is not germane to striking the Council. She's talking on another point altogether.

MS. CORN: Well, then, I would like to make a substitute for Reverend Coates' to agree with the striking of "by the Council of the District of Columbia," and add the words "or by the Statehood Compact Commission or by initiative of the voters as stated in the section on initiatives and amendments to the Constitution."

MR. CASSELL: Is there a second to that? Motion dies for lack of a second.

MR. LOVE: Call the question.

MS. CORN: Can I call a five-minute recess, sir?

MR. CASSELL: Delegate Love, it has been called to the chair's attention that debate has not been closed on the amendment on the floor.

[Conversation on the floor]

Delegate Corn, please be quiet. Delegate Love?

MR. LOVE: Two things seem to be happening here. One, some delegates seem to not want changes in the constitution, because they feel the political tide is running in their favor, and they are afraid something might be changed in response to what the voters want some time later on. Other people apparently don't want us to have a constitution because in terms of some small change that may need to be made, they want to make it impossible to make those changes. There is a great deal of paranoia in here. We are going to have to remain flexible to become a state. We are not doing the last words between now and next Saturday, which is all the time we have left. I think we need to leave as much maneuvering room as possible in case something goes wrong or we make a mistake, which we may do.

I would urge you to retain as much of the committee' language as we can, and vote against the Coates amendment.

MR. CASSELL: Delegate Robinson.

MR. ROBINSON: Mr. President, I move the previous question.

VOICE: Second.

VOICE: Second.

MR. CASSELL: All right. Those in favor of closing debate indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[Some "nays"]

Abstain.

[No response]

Okay, the motion on the floor is to strike "or by the Council of the District of Columbia."

Those in favor signify by saying aye.

[Chorus of "ayes"]

Opposed.

[Chorus of "noes"]

Abstain.

[No response]

Those in favor raise your hands.

MR. COOPER: 13.

MR. CASSELL: Those opposed.

MR. COOPER: 15.

MR. CASSELL: Abstain.

MR. COOPER: None.

MR. CASSELL: Delegate Schrag.

MR. SCHRAG: Move the previous question on Section 9.

VOICE: Second.

MR. CASSELL: Let me recognize Delegate Croft, who has been trying to ---

MR. CROFT: I was moving to make an amendment to the section.

I would like to amend the last line to read "a two-thirds vote by the Council of the District of Columbia."

VOICE: Second.

MR. CROFT: I would like to speak to that.

MR. CASSELL: You know that the last line now reads "This section shall take effect when the Constitution is approved..."

MR. CROFT: I'm sorry, the section before the last section, after the word "by," I would like to put "or by a two-thirds vote of the Council of the District of Columbia."

MR. CASSELL: Okay, second?

VOICE: Second.

MR. CASSELL: Discussion?

MR. CROFT: I would like to speak to that. I understand the argument put forth, the argument that what we are concerned with is making a change in simple language in [inaudible]. The argument put forth, that we cannot participate ---

VOICE: Common consent.

MR. CASSELL: By common consent, can we accept that now? We are simply inserting "two-thirds." All right, may we vote now.

Those in favor of the Section, Section 9, as just amended, indicate by raising your hands.

MR. COOPER: 20.

MR. CASSELL: Those opposed. Abstain.

[The count.not announced]

Section 9 is adopted. Delegate Rothschild.

MR. ROTHSCHILD: I have another section to propose.

MR. CASSELL: Another section to propose. All right, do we have it?

MR. ROTHSCHILD: Section 10, which would be titled "No Compensation to Elected Federal Representatives Before the Constitution Enters into Force." It would read as follows:

"Neither the District of Columbia nor the state shall compensate any U. S. Senator or Congressman elected from the District for services rendered, except that they may be reimbursed for lawful and reasonable expenses. This section shall take effect when the Constitution is approved by the voters."

VOICE: Second.

MR. LOVE: Point of order, Mr. Chair.

MR. CASSELL: State your point.

MR. LOVE: I think this motion has already been moved in essentially the same form earlier.

MR. ROTHSCHILD: It was out of order in the section that ---

VOICE: This is the transition section, Mr. President, and it's definitely out of order.

MS. SHELTON: Mr. President.

MR. CASSELL: Delegate Shelton.

MS. SHELTON: I am not trying to say anything about the section we voted on, but do we generally talk about transition being between the adoption and the enactment? This section would appear to have been out of order in its place. I don't know where it should go. And maybe you could suggest some place, but it definitely does not belong here.

MR. CASSELL: You are referring to the one now being offered, Section 9?

MS. SHELTON: Section 9.

MR. CASSELL: Well, it has been approved for inclusion in this particular article. The question was not raised during the debate.

MS. SHELTON: I realize that, and I wondered whether or not there would be somewhere else we could put this section most appropriately, or suggest that Style and Drafting ---

MR. CASSELL: Delegate Shelton, I think you have raised a valid point, but there is a motion on the floor to which that is not germane.

MS. SHELTON: I'm sorry.

MR. CASSELL: Now, Mr. Parliamentarian, I asked for a ruling on the appropriateness of this particular motion that has been read. Has that been before us before and rejected by the body?

MR. BALDWIN: Two points. One, it has been before us and rejected by the body; and the second point is, what

Delegate Shelton just spoke to: it has nothing to do with transition. You are talking about compensation for Senators.

MR. CASSELL: All right, the ruling of the chair is that the parliamentarian is correct, that that does not belong in this area, that it has been raised before and has been rejected by this body.

MR. COOPER: Point of clarification. It wasn't rejected by this body; it was withdrawn by Mr. Rothschild.

MR. ROTHSCHILD: Because it was put in the wrong section. So it is relevant as is Section 9; in other words, Section 9 is [inaudible].

MR. CASSELL: Well, in order to save the long drawn-out procedure of challenges, I am going to put this question to the body.

Ladies and gentlemen, may I have your attention. Delegate Rothschild would like to add to this article a Section 10 which has to do with the compensation of those persons elected to represented the new state in the United States Congress until such time as statehood is granted. Now, I would like to have a motion that says that that is or is not in place in this particular article and dispose of it.

MR. ROTHSCHILD: Point of order. I would like to speak to my motion.

MR. CASSELL: You may not speak to your motion until I have put my question. I would like you to respect the chair's purposes and his intent. You therefore may get cooperation from the chair; otherwise, you may never get it on the floor.

MR. SCHRAG: Mr. President, you have authority as President to put any procedural question to the body without ruling on it; you don't need a motion.

MR. CASSELL: All right, let me put that question-- I think your point is well taken--to you:--sir, you don't have the floor now, I am trying to communicate with our ---

MR. ROTHSCHILD: I would like to speak to the relevance of it.

MR. CASSELL: Everybody has the right to speak to the relevance; you don't have to demand that right, that's part of the rules of parliamentary procedure.

Delegates, those who believe that this section is appropriately raised at this time in this article indicate by raising your hands.

MR. ROTHSCHILD: I would like to speak to the motion.

MR. CASSELL: Would you please be quiet, sir. What is the count, Mr. Secretary?

Sometimes you lose, you know; the body is making the decision.

MR. B. MOORE: Point of order, Mr. President.

MR. CASSELL: We are in the middle of a count, sir. Would you please not interrupt that count.

MR. ROTHSCHILD: You just said I could speak to that issue, and you called a vote before I could speak to that issue.

MR. COOPER: 11.

MR. CASSELL: Those opposed to the reading of this particular section as a part of this article raise your hands. I'm not going to recognize anybody in the middle of a count.

What's the count, Mr. Secretary?

MR. COOPER: 11 in favor of putting it to ---

MR. CASSELL: I want to see that count again, it didn't look that way to me. Those in favor of Delegate Rothschild's reading Section 10, additional Section 10, for the article before us raise your hands.

MR. COOPER: 13.

MR. CASSELL: Those opposed.

MR. COOPER: 9.

MR. CASSELL: All right, Delegate Rothschild, you may read your article 10.

MR. ROTHSCHILD: Thank you, Convention. Section 10 would read: "No compensation to elected federal representatives before the Constitution enters into force." The section would read as follows: "Neither the District of Columbia nor the state shall compensate any U. S. Senator or Congressman elected from the District for services rendered, except that they may be reimbursed for lawful and reasonable expenses. This section shall take effect when the Constitution is approved by the voters."

MS. CORN: Second.

MR. ROTHSCHILD: The reason for this is I think we make the whole process of going for statehood more attractive to everybody, particularly the voters in the District of Columbia. What I am doing by this section is saying that that person or persons who will be the U. S. Representative or Senator to lobby on the Hill--as spoken to before by Delegate Simmons, we may want somebody specially for that type of a task--will not be paid, it will not cost $60,000 or $70,000 or $40,000 per person. They will be up there because they are interested in the job, they are interested in the task, they will be working for statehood and not for a salary. It is not necessarily a full-time job; they will be living in the city, they can participate in their work, in their jobs, and they can carry on their regular lives.

I have provided for expenses, if they need secretarial help or something like that, or luncheons to take a Senator out or whatever, there is provision in there for that.

So I think we will be doing the taxpayers of the city, which includes all of us, a great favor in not making this a real expensive venture, particularly--I don't know if people noticed, but even if the voters turn down this thing at the ballot, we could still get a Congressman and a Senator, and we would be paying for someone to go around for lobbying for nothing. So I really think we will save ourselves a lot of money and make statehood more acceptable to everybody. Thank you.

MR. CASSELL: Delegates Shelton, Mason, Barnes.

MS. SHELTON: While I understand and appreciate the delegate's interest in saving the District of Columbia money, I think that if he understood that he would be relegating this position to only the rich, that he would therefore decline to put forward. Most people cannot afford to spend this kind of time to vote in the interests of the citizens of the District of Columbia. There are many people, both low-income and middle-income people, who would serve us well as lobbyists who could not afford to abandon their jobs, even in love of statehood, to pursue this matter.

Second, I would like to understand that we would be up against paid lobbyists who would have not only the technique and ability but also the time to devote. And I understand the delegate's interest in not making this a paid position. But I would think, based on his history of voting on this floor, that he would not want only the rich to be able to afford to accept this position. And if he is talking in terms of large compensation, that can be settled at another appropriate time, but to [inaudible] to a position that only the rich can afford to put I think would be a misrepresentation of the interests of the citizens of the District of Columbia.

MR. CASSELL: Delegates Mason, Barnes, Robinson, Moore, and Oulahan.

MR. C. MASON: First, I want to point out one [inaudible] of Mr. Rothschild's statement, and that is that even if the constitution is turned down by the voters we will have these Tennessee plan Congress people. That will not be the case if the Council passes the legislation which has already been adopted by the committee of the whole, inasmuch as the election for the Tennessee plan Congress people would not take place until after the yes-no election on the constitution.

If the people vote no on the constitution, then there is no election for Tennessee plan Congress people. If the people vote no on one occasion, the changes are made and it is submitted to them again, then subsequent to a yes vote there would then be an election for the Tennessee plan Congress people.

But until there has been a yes vote on the constitution itself, there will be no election for Tennessee plan Congress people.

I would also point out that the existing law, the initiative itself, authorizes expenditure for this purpose. It does not appropriate money for this purpose; it only authorizes it. It means that if at an appropriate time in the future the Council should appropriate money for this purpose, or if some of the amount appropriated for the Statehood Commission should be transferred, reprogrammed for this, there might be a little money.

But the amount of this money can well be controlled or held low by action of the Council later on. I don't think we have to provide right now that it shall review them.

MR. CASSELL: You are speaking against the motion?

MR. C. MASON: I am speaking against the motion.

MR. CASSELL: Okay, Delegate Barnes?

MR. BARNES: I don't want to speak.

MR. CASSELL: Delegate Robinson.

MR. ROBINSON: I move the previous question.

VOICE: Second.

MS. CORN: Point of order.

MR. CASSELL: Yes, your point of order.

MS. CORN: Have there been two for and two against, sir? If not, I would like to speak for the amendment, for this added section.

MR. OULAHAN: Mr. Chairman, I believe I had my hand up to be recognized before the delegate called the previous question.

I will speak ---

MR. CASSELL: No, I haven't recognized you yet, I called a list of names, yours wasn't the next. Now, just hold on; I am conferring.

[Pause]

Okay, the next person is Brian Moore.

MR. B. MOORE: Thank you. I wish to speak in favor of the motion on the floor, and I will not rack off the various reasons that I did earlier. I would like to concentrate on one item only, and that is the impression that will be created in the eyes of the voters.

As the article exists now, and as approved by the delegates, it implies that there will be elected--states specifically that there will be elected representatives. The implication there is that they shall be paid. This specific provision will address that item directly, and it will address it prior to the vote of the voters; even though this whole article will not take effect until after the vote of the voters, the voters may have the impression that they are going to have to shell out a lot of money for three or four individuals for a long period of time, and they are going to base that on the history of this Congress and its approval of other states being accepted into the Union.

This specific provision by Mr. Rothschild eliminates that fear, and I think it will be very essential politically if we can create and establish that fact in the minds of the voters prior to their vote.

So I urge adoption of this amendment.

MR. COOPER: The rules have been met, Mr. Chairman; I call the previous question.

VOICE: Second.

MR. CASSELL: The previous question has been called. Those in favor of closing debate indicate by saying aye.

[Chorus of "ayes"]

Opposed.

[Chorus of "noes"]

Abstain.

[No response]

Motion on the floor is Section 10 as read by Delegate Rothschild. Those in favor of the motion indicate by saying aye.

[Chorus of "ayes"]

Those opposed.

[Chorus of "noes"]

Abstain.

[No response]

The motion loses.

MR. SCHRAG: Mr. President.

MR. CASSELL: Yes.

MR. SCHRAG: Mr. Talmadge Moore, the vice chair of the committee who has taken over on such short notice for two nights in a row now from Chairman Nahikian, is going to move the article.

MR. THOMAS: May I say one thing?

MR. CASSELL: What is this relevant to, sir?

MR. THOMAS: The section you just passed, I think it is part of my professional duty ---

MS. CORN: We voted it down, unfortunately.

MR. THOMAS: Section 9, I only want to say ---

MR. CASSELL: Is this something that we should have known or have the advantage of before we voted?

MR. THOMAS: Perhaps so--I tried to walk up to the front to say something. It seems that from the comments of Delegate Long that at least some delegates were aware of it--I just doubt from the initiative and referendum any legal force to Section 9, that this will have any legal force at all, because I don't see what effect the constitution has between the time the voters pass it and between the time it is approved by--it's eventually ratified.

And I just wanted to throw that out. Whether it would have affected the voting or not, I ---

MR. CASSELL: All right, thank you. May we have that in writing as some advice of yours.

MS. CORN: I don't understand the point.

MR. CASSELL: Delegate Schrag, a response to that?

MR. SCHRAG: I would just like to respond to the counsel. First of all, I am not certain that he is right, because the draft constitution isn't the law; the initiative and referendum statutes apply to District of Columbia law, to putting it on the books, taking it off the books. Since our draft constitution isn't a law, I think we can invent our own procedure for dealing with it before it becomes the law. I think that is what it does.

Second, even if what Mr. Thomas has said is correct in terms of District of Columbia, at least we have removed whatever obstacles might be said to have flowed from our own action to changing what we have done prior to its entry into force, that is, at least we have avoided--we may not have solved a problem, but we may have at least avoided one.

And, of course, lawyers and judges disagree on very technical questions like this, and it is ultimately up to the courts to resolve.

MR. CASSELL: Mr. Moore.

MR. T. MOORE: Mr. President, first, before I move for adoption, may I have a point of personal privilege?

MR. CASSELL: Yes, you may, sir.

MR. T. MOORE: I just want to thank all the members of this committee for their perseverance in sticking to this sticky problem; it was a very difficult article to write. And I also thank the body for their painstaking cooperation, because the report was turned over to the body because we didn't have sufficient time to get it out of committee. It was really the body's report.

Mr. President, I move that the entire article on transition be adopted, to include all sections as amended.

MS. SIMMONS: Second.

[Cries of "second"]

MR. CASSELL: Delegate Thomas?

MR. THOMAS: Yes, I just want a point of order, Mr. Chairman. The other night I had occasion to blast Brother Jerry Moore, and I want to do the same thing for the record tonight.

I think it's a shame for the people of the District of Columbia to have voted somebody into office when we are on an article as important as this ---

MR. CASSELL: Let me interrupt you, Delegate Thomas. You did say that the other night; there really isn't any remedy we can have for that, and I would prefer to keep us all in as positive a mood as possible, especially when [inaudible] next to ten. I appreciate your concern, and I think others have that same concern.

Delegates Bruning, Oulahan.

MR. BRUNING: Move the previous question.

VOICE: Second.

MR. CASSELL: The previous question is to adopt--the question on the floor, the motion on the floor, is to adopt the article before us.

MR. OULAHAN: Point of personal privilege.

MR. CASSELL: Delegate Oulahan.

MR. OULAHAN: My personal privilege, Mr. President, is that I am going to vote against this article not because it is not well put together and a good job done, and not because I don't believe in the transition. But I believe that the rejection of the new Section 10 a few minutes ago presents such a question of the policy against the interests of the people of the District of Columbia, that I cannot vote for the entire article.

MR. CASSELL: The previous question has been moved and seconded.

Yes, Mrs. Mason.

MRS. MASON: The delegate raises a question, and I would like for the record to be right. This is not a unique situation where this law approved by the voters and then ratified or approved by the Council, which provides for the Tennessee plan, is not unique. Tennessee was the first state, Michigan next, Iowa next, California next, Oregon next, Kansas next, and then Alaska. And so we are not doing anything that has never been done before, and certainly not by just one state. It is not unusual, and I just want that stated for the record.

MR. CASSELL: How many states did you mention that followed the Tennesse plan?

MRS. MASON: There were seven states. Thank you, Mr. Chairman.

MR. CASSELL: I will entertain a motion for the previous question.

MR. COOPER: Previous question.

VOICE: Second.

MR. CASSELL: Those in favor of cutting off debate, signify by saying aye.

[Chorus of "ayes"]

Opposed.

[No response]

Abstain.

[No response]

All right, the motion on the floor is to adopt the article before us. Those in favor of adopting the article, as amended, indicate by saying aye.

[Chorus of "ayes"]

Those opposed°

[Two or three "noes"]

Abstain.

[No response]

All right, the article is adopted.

[Applause]

MR. CASSELL: Is anyone prepared to read the next article at this point?

MR. COOPER: At this point, Mr. President, in accordance with Rule 3.3A, which was suspended to allow one-day circulation of an article prior to first reading, there are still no committees who have really met that requirement. The article on the Bill of Rights was signed off and circulated today, and Mr. Marcus is saying it was circulated--I figure he ought to know.

And the article on Health, Housing and Social Services is currently in circulation as well. I think Ms. Harris our Second Vice President, has some information on health and housing.

MRS. MASON: Mr. President, a point of clarification.

MR. CASSELL: Hold on just a minute. Mr. Secretary, is there anybody who is prepared to read tomorrow morning?

MR. COOPER: Well, given that we need twenty-four hours, no.

MR. CASSELL: Yes, Delegates Mason and Simmons.

MRS. MASON: I will take only one minute, Mr. President. I was asked, since the machine is down here, if I would make thirty copies of Health, Housing and Social Services Committee report, and I would be glad to do that, and I would be glad to try to get back into the building to distribute them so that they will be in the boxes first thing tomorrow morning.

MR. CASSELL: Tonight you will do that?

MRS. MASON: We could ask the guards to let me back in.

MR. CASSELL: Surely. Thank you very much. You would have to do that right away, though, because I believe that the elevator operators are gone at 11 o'clock.

Can you do that now, Delegate Mason?

MRS. MASON: Will the guards be here?

MR. CASSELL: Yes, the guards are here, and perhaps they could operate the elevator. But just as soon as you could do that, and that would be a great service, if indeed you could get those into the boxes tonight.

Delegate Simmons?

MS. SIMMONS: Yes, Mr. President. I would ask you to have this body consider an appeal [sic] of our rules in terms of the lay-over time for articles at this point, at this juncture.

I believe that we could move forward and have the first readings of those sections, at least the readings and the questions, even if we didn't debate and amend each of those. We could do all four or five of them that are remaining. You know, just in terms of the reading.

VOICE: Second.

VOICE: Only two of them.

MS. SIMMONS: We have only got two? I would like to move to suspend the rules to permit that, if I am in order, Mr. President.

MR. THOMAS: Second.

MR. CASSELL: All right, Delegate Baldwin, Delegate Kameny. Was that a motion, did you move?

MS. SIMMONS: Yes, I did.

MR. CASSELL: I did not ask for a second.

MR. THOMAS: I seconded it.

MR. SCHRAG: Point of information.

MR. CASSELL: Point of information.

MR. SCHRAG: Are copies of either of these articles --do we have copies of the Bill of Rights in the boxes?

VOICE: Yes, in the boxes.

MR. CASSELL: Delegate Baldwin, then Kameny.

MR. BALDWIN: Mr. President, there are two items remaining for first reading, right? There are two articles that are ready for second reading, and we amended our rules or suspended our rules to allow the first reading to go ahead in one day.

Considering the time, May the 29th, if we really mean business, our agenda tomorrow should be as solid, the agenda beginning tomorrow morning at 10 through 5 o'clock could be as solid if we are serious about moving that agenda, to get two or three hours knocked off of our rules. We could begin tomorrow at 10 o'clock second reading on the judiciary, finish that second reading on intergovernmental relations, finish that one, first reading on health services; and, if time permits, from 3 to 5, we could in fact read and answer questions to the Rights, a few sections--but I doubt that we will need to do that, because I don't think we would get to it--and then begin plenary on Rights.

So, Mr. President, we do in fact have an agenda for tomorrow. I think all we got to do is just be considerate, and it doesn't necessarily have to come in the order I gave; you could put intergovernmental relations first, or we could start reading health, housing and human services first. But there are agenda items for tomorrow, if only we will cooperate and be understanding.

MR. CASSELL: All right, the Vice President has pointed out that there are second readings that are appropriate, and that is judiciary, intergovernmental relations, and it is possible that we may, if indeed we get the health, housing and human services in the boxes tonight, that we might be able to read those; and, if we got as far as that, we might go to rights.

Delegate Kameny?

MR. KAMENY: I merely wanted to concur with Delegate Baldwin and simply point out that since we have started the second reading on judiciary, we might very well continue that for the remainder of this evening.

MR. COOPER: Point of clarification.

MR. CASSELL: State your point.

MR. COOPER: Mr. President, you might recall that all four of those articles that were mentioned--health and housing, the Bill of Rights, judiciary and intergovernmental relations--you just signed all four of those tonight.

MR. KAMENY: The judiciary was [inaudible] days ago.

MR. COOPER: Like I said, it was just signed by the

President tonight, that's all I am saying; I am not debating what we have done in the past.

MR. CASSELL: All right, I have heard what everybody has said. Those facts notwithstanding, those articles have been in the hands or shall have been in the hands of people for at least twenty-four hours by the time we get to them tomorrow. We are in the business of expediting now.

Yes, Delegate Oulahan.

MR. OULAHAN: Mr. President, the article on the Bill of Rights is not complete; we have not been provided with a report. I have been over it, it is incomprehensible, it is difficult to understand, unless we have what appears to be a voluminous report.

It is one of the most important issues we face. To force us to start debating or voting on that article tomorrow, to my mind would result in a very unsatisfactory solution, and I hope we will not deal with it until Monday, so that some of us who regard this as important will have had a chance to prepare appropriate amendments which we ---

MR. CASSELL: Delegate Oulahan, please understand that we are talking about the possibility of dealing with those that shall have qualified in accordance with our revised rules by the time we read.

Delegate Marcus, do you want to speak on that same issue?

MR. MARCUS: For once Mr. Oulahan and myself are on the side. I might inform the delegates that the research assistant, myself, and most of the Committee on Preamble and Rights have been working on the report since about 11 o'clock last night.

MR. KAMENY: And all day today.

MR. MARCUS: And all day today. We will be completed with that in its entirety--some time on Sunday we will be completed with a volume of it, if it's absolutely necessary, by about 2 or 3 o'clock tomorrow afternoon. We have arranged for two of the attorneys that worked with us on the Bill of Rights to be available at our deliberations within a time after 3 tomorrow, also Monday. I appreciate your concern, and thank you for your understanding.

As the delegates will see, the entire Bill of Rights required a great deal of legal citation. I would agree that delegates need time to look at that.

MR. CASSELL: All right, thank you. Chestie Graham.

MS. GRAHAM: Mr. President, I would like to see us begin the Bill of Rights, because we in Style and Drafting have found that we need to have all first readings by the end of the plenary session tomorrow. We need all of the second readings by the end of discussion on Wednesday. And we have a schedule that we hope to ask tonight or tomorrow that the Convention recess till Thursday so we will have all day Thursday, and come back on Friday and we will have something to present for the third reading.

MR. CASSELL: Had you finished, Delegate Graham?

MS. GRAHAM: We would like to be sure that we have got the Bill of Rights, if at all possible, tonight or tomorrow, no later than tomorrow, so that we can finish and we can really work on it and give it the kind of editing that is needed.

Some delegates on Style and Drafting may want to add something to this, I don't know.

MR. CASSELL: Thank you. There is an option available to the Convention. If it appears that the schedule of reporting out of any committee's articles is so delayed, they will not be able to consider it in due course, we have the option of discharging it in accordance with our rules and working on it as a committee of the whole.

So that is something that is before us and something we might consider tomorrow.

Delegate Robinson, Love.

MR. ROBINSON: Mr. President, I would like to just slightly change the subject and say that, given the swinging of the pendulum, that maybe we want to consider Sunday as a meeting day, remembering that Style and Drafting needs to have certain documents, certain articles, before it by Wednesday, I think that this body ought to consider, after its work tomorrow, before adjournment, if in fact Sunday would not be a day that we can utilize to get through first and possibly second reading of some of the articles.

MR. CASSELL: I would be glad to put that motion to the body at that time.

MR. ROBINSON: Monday is a holiday. I don't know if the body has taken that into account.

MR. CASSELL: I don't know how germane that is any more at this point.

Delegate Love.

MR. LOVE: Mr. Chair, I would like to support Delegate Baldwin's suggestions, although I would suggest that we start the readings at 10 o'clock, since we won't have a quorum, and anybody who wants to ask questions about health, housing and human services and the Bill of Rights be here at 10.

I would reiterate what Delegate Graham has said:

we need all of these first readings by Saturday night, we need all of the second readings done by Wednesday night. There is no time left to consider Bill of Rights on Monday; it is virtually impossible to do it on Sunday, because that is when Style and Drafting is going to be doing the earlier materials.

Now, if we have to meet Sunday, then there is no question: we cannot wait until Monday for the Bill of Rights, it's impossible.

MR. CASSELL: All right, let me point out one thing: it's now 10:14. It appears that on substantive matters of procedure, that we are consuming the balance of the time, so that we will not get to any further readings tonight.

Was there someone else besides Delegate Graham? Thomas.

MR. THOMAS: I would like to speak against the second reading of the judiciary tomorrow morning at 10 o'clock. There are only two members of the committee here; the chairman of the committee said he didn't want to participate in it-- and I would like, if you are going to read it, to make that the last item on the agenda.

You had Miss Baker doing an analysis on the whole report; that hasn't been run yet. Mr. Baldwin is going to try to run it tonight. Whether that has been done or not, I don't know, because of the condition of the Xerox machine.

But I would strongly request that this not be done first.

MR. CASSELL: Okay. Baldwin.

MR. BALDWIN: Mr. President, I move that the agenda for tomorrow, May the 22nd, be as follows: the first item on the agenda tomorrow morning would be the second reading of intergovernmental relations; the second item on the agenda would be health, housing and human services, first reading and question-and-answer period--in fact, as Mr. Love has pointed out, I think we really should start with that one just in case we don't have that quorum, at least we can start reading it and asking questions, so why don't we make the health, housing and human services the first item on the agenda; the second item would be the second reading of intergovernmental relations; the third item on the agenda would be the second reading of the judiciary, and by that time we could have all of that straightened out; and the final item, if possible, if we get to it, we should then consider question and answer on Bill of Rights.

[Cries of "second"]

MR. CASSELL: Discussion?

MR. ROBINSON: Point of information.

MR. CASSELL: State your point.

MR. ROBINSON: My question to Mr. Baldwin is, has the article on health, housing and human services been properly circulated? It is my understanding that the machine has stopped, and, as a matter, it has not been placed in each delegate's mailbox, a copy of the proposed article.

MR. CASSELL: Response, Second Vice President.

MS. HARRIS: Yes, fifteen copies have been completed and they are finishing up a second fifteen copies. Everybody here tonight should get a copy of it.

MR. LOVE: Point of information, Mr. Chair.

MR. CASSELL: State your point.

MR. LOVE: All of us received in our boxes a preliminary draft of that report anyhow, so we have a fairly good idea of what's going in it, I doubt if they have made substantial changes in the draft.

MR. CASSELL: I think we should take into account that we are less concerned now with conformance to the absolute letter of the law in getting all of these read in due course.

Okay, Barnes, and then Cooper.

MR. BARNES: I am against the motion, because I personally would feel more comfortable getting all of the first readings done before we start the second readings. I would like to see us come in at 10 o'clock, until we have a quorum, to discuss health and housing and get that out of the way and put that aside. After that ---

MR. BALDWIN: That is the first item on the agenda, Delegate Barnes.

MR. BARNES: I withdraw my comments.

MR. CASSELL: That's the motion, yes. Cooper.

MR. COOPER: I would like to say first of all, Mr. President, I am concerned with conformance to the letter of the law, and I would like to offer an amendment to the motion that is on the floor.

My amendment would be that the agenda for tomorrow would be to act on the first reading of health and housing, followed by the first reading on preamble and rights, followed by second reading, period, on whatever articles there are prepared.

VOICE: Second.

MR. CASSELL: Okay, substitute motion is that we change the order. The order, as indicated by Delegate Baldwin in his motion, is that there be a first reading of health, housing and social services as item No. 1; item No. 2 would be intergovernmental relations; item No. 3 would be a reading of the--second reading of judiciary; and, if we got to it, the fourth item would be the first reading of the rights portion of preamble and rights.

The substitute motion is to change that order so that it would be: No. 1, the first reading of health; No. 2 would be the first rights, I beg your pardon--in other words, he wants to get the first readings out of the way, the two first readings out of the way, and then to deal with second readings.

Is the substitute motion clear? The difference simply is that Delegate Cooper wants to get all firsts out of the way, if indeed the rights portion of preamble and rights is ready.

Discussion on the substitute motion? Schrag and Marcus.

MR. SCHRAG: Mr. President, every speaker who has addressed these motions so far has assumed that we are not going to have a quorum at 10 o'clock in the morning. I think that assumption might be a fair one in view of the unfortunate practice that we seem to have fallen into over the past few weeks in which people have not been here at the time we are supposed to convene.

But we have one week left, and it seems to me that it behoves members to get here at the appointed hour. I would like to suggest to the President that he instruct the staff to call all delegates who are not here now at 8:30 in the morning and make sure that they understand that the meeting starts at 10.

[Cries of "second"]

MR. CASSELL: The President has no problem doing that.

All right, discussion on the substitute motion.

MR. ROBINSON: I move the previous question.

MR. CASSELL: Discussion--we haven't had enough discussion.

Hold on just a minute. Okay, Marcus.

MR. MARCUS: I would speak against the substitute motion for the simple reason that at least--I will be here--that at least in regards to the Bill of Rights, literally every word has legal meaning, and literally every word is extremely important in terms of the rights of the people of the state.

I would simply like to have available for the delegates the appropriate information to discuss that [inaudible] and debate it. That information will be available after 3 o'clock tomorrow. I would prefer that we wait until that time. I don't know how delegates can confidently debate issues which may in fact be the difference between several years in prison for people unless they have the appropriate background information.

MR. CASSELL: Oulahan.

MR. OULAHAN: Mr. Chairman, [inaudible] that we do not have the report on the Bill of Rights, we just have the language of the Bill of Rights, but we do not have the backup, so therefore they are not even within the rules that we have been working under.

MR. CASSELL: One more speaker. Cooper.

MR. COOPER: I would like to speak in favor of my substitute, because I think we have to get these first readings out of the way. I think we have dilly-dallied around long enough with the Bill of Rights. The Committee on Preamble and Rights convened on February 25th, just like every other first group committee, and every other first group committee has gotten their report out.

[Mr. Cassell gavels for order]

Mr. President, as Ms. Graham of Style and Drafting pointed out, she needs to have the first reading reports by end of Saturday; it is imperative if we are going to get a constitution written. And I think we can do it; I know we can do it--only if we have strict conformity to the substitute motion will we be able to get the constitution written by the 29th.

I urge my fellow delegates to vote it up.

MR. CASSELL: Okay, Delegate Mason, and then we will vote.

MRS. MASON: I thank you, Mr. President. I serve on the Style and Drafting Committee, and I feel the urgency that the chairperson feels. But I am very convinced that since the Bill of Rights is so technical, so very comprehensive, that we need to have it so that we can go over it--and if we didn't have anything else to do, and if tomorrow were the 29th, I would say yes. But tomorrow is not the 29th. We are disorganized, and we are getting--I think the chairperson gave you some plans that we have. I just feel very convinced--I have not seen the Bill of Rights except right now it landed in my hand. I have not seen the report. And I think it would be unfair to the delegates and to the residents of the District of Columbia for us to approve something that we are not very familiar with, which is highly legalistic, technical, etcetera.

And I urge the delegates not to vote to move on the Bill of Rights tomorrow. Thank you, Mr. President.

MR. CASSELL: Thank you. The substitute motion on the floor is to act tomorrow on the first reading of health, housing and social service and rights.

Those in favor of the substitute motion indicate by saying aye.

[Chorus of "ayes"]

Those opposed.

[Chorus of "noes"]

Abstaining.

[No response]

Motion loses.

Delegate Baldwin's motion is now on the floor, and that is that on tomorrow we consider first health, housing and human services; second, intergovernmental relations; third, the second reading of judiciary; and, fourth, if we get to it, rights.

Those in favor of that motion signify by saying aye.

[Chorus of "ayes"]

Those opposed.

[Chorus of "noes"]

Abstain.

[No response]

Motion carries.

At the end of the day tomorrow or some time tomorrow I think we all need to take another assessment of where we are in our time frame, and we will address that tomorrow.

I will entertain a motion to adjourn, unless there is some ---

MR. ROBINSON: Mr. President, I move that we adjourn.

VOICE: Second.

MS. SHELTON: Mr. Chair, I would urge all of those who are considering amendments to the Bill of Rights, that they try to get together and caucus so that we don't have a whole lot of amendments coming up that have not been properly thought and worked through, and that we use this period of time to truly get together and work through some of these amendments so that we don't have a whole lot of amendments coming to the floor that don't have ---

[Mr. Cassell gavels for order]

MR. CASSELL: I urge you to take heart to Delegate Shelton's suggestion, that everybody who has an amendment get together with anybody else who may have a similar amendment in order to eliminate the waste of time. I warn you that tomorrow we are either going to expedite, or you are going to spend much of the day dealing with appeals to the rulings of the chair regarding amendments. You have a choice.

MR. KAMENY: I would urge you not to consider amendments to the Bill of Rights until you have seen the report.

MR. COOPER: I would like to make a statement.

MR. CASSELL: Go ahead.

MR. COOPER: I would hope that since it is 10:26 and not 11 o'clock, I hope that we can get here as close to 10 a.m. as possible. I don't want to have to call people out of their beds like I did last week. I urge everyone to come here at 10 a.m.

MR. CASSELL: The chair declares that this meeting is recessed until tomorrow.

[The session recessed at 10:27 p.m.]

Committee on Local Government

Committee Draft -- April 22, 1982, with further editions

May 10, 1982

Court Reporter

MARK-UP

Article ______

Transition

Section 1. Effective dates

The provisions of Sections 1 through 3 of this article, providing for the establishment of the state's first government, shall enter into force on a date specified in the federal legislation admitting the State to the Union. The State shall come into being, nd the remainder of this Constitution shall enter into force, at 10:00 A.M., Eastern Standard Time, on the second day of the tenth full month after that date.

Section 2. Initial apportionment and elections

A. Immediately following the enactment of legislation admitting this State to the Union, the Mayor of the District of Columbia shall issue a Proclamation and shall promptly appoint, with the advice and consent of the members of the Council, nine members of a Commission on nitial Apportionment, including at least one member from each of the District's eight wards. The members and staff of the commission shall be compensated as provided by law. The Commission shall, within thirty days after its last member is appointed, adopt a plan for the apportionment of the State into ___ legislative districts in a manner consistent with Section ___ of Article ___ of this Constitution. The Commission shall publish this apportionment plan within five days thereafter.

B. The plan published by the Commission shall enter into force unless, within 20 days after the Commission's plan has been published, the Council, by a two-thirds vote of its entire membership, approves a different plan of apportionment and the Council's plan is signed by the Mayor.

C. By law, the Council of the District of Columbia shall provide for the election of the first legislature and Governor of the tate. Regular or special primary and general elections shall be held for these offices within 120 days after the initial apportionment plan enters into force, except that these elections shall not take place during July or August, and the 120 day limitation may be extended, if necessary, in order to avoid having to hold these elections during those months.

Section 3. .Initial terms of office of Governor, Secretary of State, and Legislature

A. At a public drawing within five days after the initial apportionment plan has entered into force, the Chair of the Commission n Initial Apportionment shall select, at random, half of the legislative districts to be "Group A" districts. The initial terms of office of members of the legislature elected from Group A districts shall begin twenty days after the date of their elections and shall expire on the second Monday in January of the second odd-numbered year following their election. The initial terms of office of members of the legislature elected from the other districts shall begin twenty days after their election and shall expire on the second Monday in January of the first odd-numbered year following their election; except that if this provision would result in a term shorter than one year, their terms shall expire on the second Monday in January of the third odd-numbered year following their election.

B. The terms of office of the first Governor and Secretary of State shall begin twenty days after their election and shall expire on he second day of January following the date of the next Presidential election. If this provision would result in terms shorter than one year, their terms shall expire on the second day of January of the year after the second Presidential election year following their election.

C. If the first election for Governor of the State has not been held by the date that the State comes into being, or if for any other reason a Governor cannot assume office on that date, the Executive power of the State shall be exercised temporarily by the person last elected as Mayor of the District of Columbia prior to the effective date of this Section of the Constitution.

D. If the first election for state legislators has not been held by the date that the State comes into being, or if for any other reason the members of the legislature cannot assume office on that date, the legislative power of the State shall be exercised temporarily by the persons last elected as members of the Council of the District of Columbia prior to the effective date of this Section of the Constitution.

E. No new election for Mayor or Council shall be held after this Section of the Constitution becomes effective. If such an election would ordinarily be scheduled between the date that this Section of the Constitution becomes effective and the date that the other Article of the Constitution become effective, the Mayor and the Council shall hold over.

Section 4. Other Officers.

A. The Chief Judge and Associate Judges of the Court of Appeals of the District of Columbia on the date that this section enters into force shall become the Chief Justice and Associate Justices of the Supreme ~~Superior~~ Court. The Chief Judge and Associate Judges of the former Superior Court of the District of Columbia on that date shall become the Chief Judge and Associate Judges of the Superior Court. At the general election held in the final year of their terms, such judges shall be subject to retention or rejection by the electors in accordance with the provisions of the Article on the Judiciary. Retired Judges of the Court of Appeals of the District of Columbia, and of the Superior Court of the District of Columbia, shall become Retired Justices of the Supreme Court, and Retired Judges of the Superior Court, respectively. They may be assigned by the Chief Justice for temporary service.

B. The terms of seven of the members first appointed to the Judicial Nomination Commission shall be shorter than six years, as provided by law, so that members' terms will expire on a staggered basis, and the Governor and Board of Governors of the unified state bar shall determine, for their initial apointments, which appointees shall serve which terms.

C. The persons first selected as members of the Commission on Judicial Disabilities and Tenure shall begin to serve their terms upon the expiration of the terms of corresonding incumbent members of the ommission on Judicial Disabilitites and Tenure established by Section 431 of the District of Columbia Self-Government and Reorganization Act (Dec. 24, 1983, 87 Stat. 792).

D. By agreement between the State and the federal government, United States Marshalls may provide services to the courts of the state until the State has appointed its own officers to replace them.

E. Except as otherwise provided in this Constitution, all other officers filling any office by election or appointment shall continue o exercise the duties thereof, according to their respective commissions or appointments, until their offices shall have been abolished or their successors selected and qualified.

Section 5. Existing laws, rights, and proceedings

A. All laws and regulations not inconsistent with this Constitution shall continue in force until they expire by their own limitation or are amended or repealed.

B. Federal legislation applicable only to the District of Columbia and not inconsistent with this Constitution is hereby adopted as state law, subject to amendment or repeal by the legislature.

C. All existing writs, actions, suits, judicial and administrative proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights shall continue unaffected except as modified in accordance with the provisions of this Constitution. The State shall be the legal successor to the District of Columbia in all matters.

D. Residence, citizenship, or other qualifications under the District of Columbia may be used toward the fulfillment of corresponding qualifications required by this Constitution.

E. The debts and liabilities of the District of Columbia, as of the date that the State comes into being, shall be assumed by the State, and debts owed to the District of Columbia shall be collected by the State. Assets and records of the District of Columbia shall become the property of the State.

Section 6. United States Senators and Representatives

A. The Senators-elect and Representatives-elect chosen by the people prior to admission of the State to the Union shall serve as United States Senators and Representatives in Congress until their successors have been elected and have qualified.

B. New elections for these offices shall be held at the first general election which occurs in an even-numbered year after this Constitution becomes effective.

C. At that time, one Senator shall be elected for the long term and one Senator for the short term, each term to begin on the third day of the following January and to expire on the third day of January in an odd-numbered year to be determined by authority of the United States.

Section 7. Agencies with federally-appointed officers

Boards, commissions or other agencies of the District of Columbia whose duties are consistent with this Constitution, and whose membership includes persons who hold office because they also hold (or were appointed by persons who hold) federal office, shall continue to function, without those federally-appointed officers. No vacancies shall be deemed to be created by the abolition of the federal positions.

Section 8. Transfer of Matters to the Attorney General

A. Upon assuming office, the Attorney General shall assume control of all matters formerly handled by the Corporation Counsel of the District of Columbia.

B. When the Attorney General of the State determines that he or she is prepared to handle legal matters of the type previously handled by the United States Attorney for the District of Columbia, he or she shall arrange with the United States Attorney for the orderly transfer of such matters to the Office of the Attorney General.

C. The Attorney General may agree with the United States Attorney to enable the United States Attorney to continue to handle any case or category of case, including any case arising after this Constitution becomes effective, so that responsibility over these matters is transferred in an orderly manner. The Attorney General may also agree to permit the United States Attorney to carry any case through to completion to facilitate continuity.

D. Until a matter is transferred at the request of the Attorney General, it may be handled by the United States Attorney as if it had been transferred to the Attorney General.

Section 9. Amendments before the Constitution enters into force

Between the time that it is signed and the time that it is approved by the electors of the District of Columbia, this Constitution may be amended by the affirmative votes of a majority of all delegates of a District of Columbia Statehood Constitutional Convention. After the voters have approved it and before the Article on Amendments enters into force, amendments to this Constitution may be adopted by the electors of the District of Columbia after affirmative recommendation by a District of Columbia Statehood Constitutional Convention or by the Council of the District of Columbia.